

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

H
M

MAR 25 2002

Michael N. Milby, Clerk

MARK NEWBY, ET AL.,

Plaintiffs,

vs.

ENRON CORPORATION, ET AL.,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. H-01-3624
AND CONSOLIDATED CASES

**LJM2 CO-INVESTMENT L.P.'S RESPONSE TO THE
PEARSON PLAINTIFFS' MOTION TO ALLOW INSPECTION OF
DOCUMENTS AND SUBPOENA OF SAME FOR SAFEKEEPING**

LJM2 Co-Investment L.P. ("LJM2") files this response to the *Pearson* Plaintiffs' Motion to Allow Inspection of Documents and Subpoena of Same for Safekeeping (Docket No. 345)("the Motion") and would show the Court as follows:

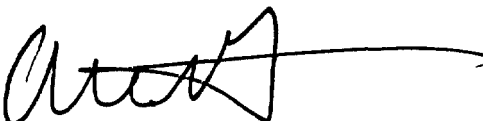
1. Pursuant to Federal Rule of Civil Procedure 10(c), and in the interest of keeping the filings in this action as brief and manageable as possible, LJM2 fully incorporates by reference the Response to the *Pearson* Plaintiffs' Motion to Allow Inspection of Documents and Subpoena of Same for Safekeeping filed by LJM Cayman, L.P., Chewco Investments, L.P., and Michael J. Kopper ("LJM Cayman Response"). As the LJM Cayman Response amply demonstrates, the Court should not grant the Motion because the *Pearson* Plaintiffs have failed to prove that an exception to the Private Securities Litigation Reform Act's ("Reform Act") discovery stay exists here. In stark contrast to their burden of proving that "exceptional circumstances exist" to lift the stay, *see* Joint Explanatory Statement of the Committee of

4024

U.S.C.C.A.N. 731, 736, the *Pearson* Plaintiffs have merely made conclusory allegations about potential document destruction without providing the Court with any supporting evidence or analysis. Because the *Pearson* Plaintiffs have not proven that the Reform Act's stay should be lifted, and for all other reasons set forth in the LJM Cayman Response, the Court should deny the Motion, and discovery should proceed in the orderly manner set forth in the Court's Scheduling Order.

WHEREFORE, PREMISES CONSIDERED, LJM2 respectfully requests that this Court deny the *Pearson* Plaintiffs' Motion to Allow Inspection of Documents and Subpoena of Same for Safekeeping.

Respectfully submitted,

By: 

Mark K. Glasser
Federal I.D. No. 930
State Bar No. 08014500
King & Spalding
1100 Louisiana Street, Suite 4000
Houston, TX 77002
(713) 751-3200 (Telephone)
(713) 751-3290 (Facsimile)

Attorney-in-Charge for Defendant
LJM2 Co-Investment L.P.

OF COUNSEL:

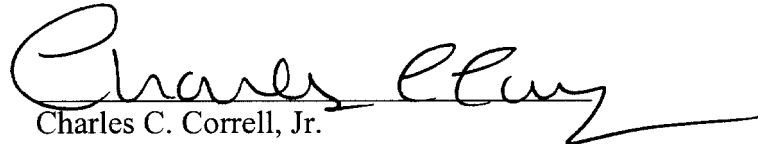
King & Spalding

Reginald R. Smith
Federal I.D. No. 18982
State Bar No. 00792174
Charles C. Correll, Jr.
Federal I.D. No. 19371
State Bar No. 00793550
1100 Louisiana Street, Suite 4000
Houston, TX 77002
(713) 751-3200 (Telephone)
(713) 751-3290 (Facsimile)

Attorneys for Defendant
LJM2 Co-Investment L.P.

CERTIFICATE OF SERVICE

This pleading was served in compliance with the Rules 5b of the Federal Rules of Civil Procedure on March 25, 2002, to all counsel of record.


Charles C. Correll, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARK NEWBY, ET AL.,	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	CIVIL ACTION NO. H-01-3624
	§	AND CONSOLIDATED CASES
ENRON CORPORATION, ET AL.,	§	
	§	
Defendants.	§	

**ORDER DENYING THE *PEARSON* PLAINTIFFS' MOTION TO ALLOW
INSPECTION OF DOCUMENTS AND SUBPOENA OF SAME FOR SAFEKEEPING**

On _____, 2002, the Court considered the *Pearson* Plaintiffs' Motion to Allow Inspection of Documents and Subpoena of Same for Safekeeping (Docket No. 345)("Motion"). After considering the Motion and the various responses filed by the other parties, the Court DENIES the Motion.

The Honorable Melinda Harmon
United States District Court Judge